

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 1181 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 8-1-2-83 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 83. (a) ~~No~~ **This section**
- 5 **does not apply to:**
- 6 (1) a corporation organized or operating under IC 8-1-13; or
- 7 (2) a corporation organized under IC 23-17, some of the
- 8 members of which are local district corporations (as defined
- 9 in IC 8-1-13-23).
- 10 (b) As used in this section, "control" means the power to direct
- 11 the management and policies of a public utility, utility company, or
- 12 holding company through:
- 13 (1) the ownership of voting securities or stock;
- 14 (2) the terms of a contract; or
- 15 (3) other means.
- 16 The term does not include power from holding an official position
- 17 or corporate office with the public utility, utility company, or
- 18 holding company. Control is presumed to exist if a person, directly
- 19 or indirectly, owns, controls, or has the power to vote (by proxy or
- 20 otherwise) at least twenty percent (20%) of the total voting power
- 21 of the public utility, utility company, or holding company.
- 22 (c) As used in this section, unless otherwise indicated, "holding
- 23 company" means a company that has control over one (1) or more:
- 24 (1) public utilities; or
- 25 (2) utility companies.
- 26 (d) As used in this section, "person" means an individual, a
- 27 firm, a corporation, a company, a partnership, a limited liability
- 28 company, an association, a trustee, a lessee, or a receiver.
- 29 (e) As used in this section, "reorganization" means a
- 30 transaction that, regardless of the means by which it is
- 31 accomplished, results in:
- 32 (1) a change in the ownership of a majority of the voting

capital stock of a public utility;

(2) a change in the ownership or control of an entity that owns or controls a majority of the voting capital stock of a public utility;

(3) the merger of two (2) public utilities; or

(4) the acquisition by one (1) public utility of substantially all assets of another public utility.

(f) As used in this section, "utility company" has the same meaning as the definition of public utility under section 1 of this chapter, except that a utility company owns, operates, manages, or controls a plant or equipment located outside Indiana.

(g) A public utility, as defined in section 1 of this chapter, shall may not do any of the following without the approval of the commission after a hearing:

(1) Sell, assign, transfer, lease, or encumber its stock, franchise, works, or system to any other person, partnership, limited liability company, or corporation. ~~or~~

(2) Contract for the operation of any part of its works or system by any other person, partnership, limited liability company, or corporation. ~~without the approval of the commission after hearing. And no such~~

(3) Contract for or effect a reorganization of the public utility.

(4) Acquire control, directly or indirectly, of a public utility, utility company, or holding company.

(h) A person may not acquire control, directly or indirectly, of a public utility or the holding company of a public utility without the approval of the commission after a hearing.

(i) A holding company that controls at least one (1) public utility may not acquire control of a utility company without the approval of the commission after a hearing.

(j) A public utility, except temporarily or in case of emergency and for a period of not exceeding thirty (30) days, shall may not make any special contract at rates other than those prescribed in its schedule of rates theretofore filed with the commission, and in force, with any other utility for rendering any service to or procuring any service from such other utility; without the approval of the commission. It shall be lawful, however, for any utility to make a contract for service to or from another utility at rates previously filed with and approved by the commission and in force.

~~(b)~~ (k) The approval of the commission of the sale, assignment, transfer, lease, or encumbrance of a franchise or any part thereof under this section shall not revive or validate any lapsed or invalid franchise, or enlarge or add to the powers and privileges contained in the grant of any franchise or waive any forfeiture. No such public utility shall directly or indirectly purchase, acquire, or become the owner of any of the property, stock, or bonds of any other public utility authorized to engage or engaged in the same or a similar business, or operating or purporting to operate under a franchise from the same or any other municipality or under an indeterminate permit unless authorized so to do by the commission.

~~(c)~~ (l) Nothing contained in this section shall prevent the holding

1 of stock lawfully acquired before May 1, 1913, or prohibit, upon the
2 surrender or exchange of said stock pursuant to a reorganization plan,
3 the purchase, acquisition, taking, or holding by the owner of a
4 proportionate amount of the stock of any new corporation organized to
5 take over at foreclosure or other sale, the property of the corporation
6 whose stock has been thus surrendered or exchanged.

7 ~~(d)~~ **(m)** Every contract by any public utility for the purchase,
8 acquisition, assignment, or transfer to it of any of the stock of any other
9 public utility by or through any person, partnership, limited liability
10 company, or corporation without the approval of the commission shall
11 be void and of no effect, and no such transfer or assignment of such
12 stock upon the books of the corporation pursuant to any such contract
13 shall be effective for any purpose."

14 Renumber all SECTIONS consecutively.

(Reference is to EHB 1181 as printed April 6, 2001.)

Senator BRODEN